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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/525,042

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Harold Russell Motson

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EXAMINER

ASDJODI, MOHAMMAD REZA

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/525,042	Applicant(s) MOTSON ET AL.	
	Examiner M. REZA ASDJODI	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-10, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romack et al. (US 6,258,766 B1), in view of Jureller et al. (US 5,676,705).

Regarding to claims 1-7, and 23, Romack et al. teach a method and composition for dry cleaning (1: 60-68, 2: 1-3) wherein the textile are contacted with a treatment medium based on liquid CO₂; [3: 41-50], which includes alkoxyated alcohols and fatty acids (surfactants or conditioning medium) by the amount of 0.1-10%; [3: 41-50, 2: 60-63].

With respect to claims 1-2, Romack et al. do not specifically point to the fatty alcohol branched polyalkyloxyate of formula (I), even though considering the list of similar compounds on column 4, their presence is implicitly abundant. However, Jureller et al. teach a very similar CO₂ based cleaning composition comprising the fatty alcohol branched polyalkyloxyate of instant claim; [9: formula II, claim 1], when considering the stated ranges of parameters A, A', d, L, L', e, f, n, g, o, z, G, and h as defined; [5: 4-26, 6: 1-3, 10: 22-29], the exemplified structure is



where $m_{\text{claim}} = i_{\text{ref}} = 1-50$; [10: 25-26, 11: 23], and $R^1_{\text{claim}} = \text{C}_8\text{-C}_{22}$, $R^2_{\text{claim}} = \text{H}$.

Jureller et al. and Romack et al. are analogous art because they are from the same field of endeavour, that of CO₂ based dry cleaning compositions and methods. At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the same types of fatty alcohols of Schulte et al. (which are functional equivalent) in the process of Romack et al.

Regarding claim 8, Romack et al. teach, a method, that the textile is contacted with dry cleaning composition including detergent material; [5: 60-65].

Regarding claim 9, Romack et al. teach a multi-ester additive such as dimethyl succinate which is equivalent to that of formula (II) with molecular weight of less than 750; [3: 20-26].

Regarding claim 10, Romack et al. teach the basic method of cleaning a textile by contacting it with carbon dioxide based cleaning and conditioning agent. Additionally, with respect to this limitation of instant claim the *MPEP 2144.04, II* states that:

“Omission of an Element and Its Function Is Obvious if the Function of the Element Is not Desired: *Ex parte Wu*, 10 USPQ 2031 (*Bd. Pat. App. & Inter.* 1989)”. At the time of invention it would have been obvious to a person of ordinary skill in the art to include or exclude any one of cleaning and conditioning ingredients with the motivation of cleaning, or rinsing them without surfactants of conditioning components, as is further evidenced by Jureller et al.; [22: table 2, 24: table 4].

Claims 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romack et al. (US 6,258,766 B1), in view of Jureller et al. (US 5,676,705).

Regarding claims 11, 13, and 15, Romack et al. teach a method and composition for dry cleaning (1: 60-68, 2: 1-3) wherein the textile are contacted with a treatment medium based on liquid CO₂; [3: 41-50], which includes a multi-ester additive such as dimethyl succinate which is equivalent to that of formula (II) with molecular weight of not more than 750, and by the amount of 0.1-50%; [3: 20-26, 2: 63-65], alkoxyated alcohols and fatty acids (surfactants or conditioning medium) by the amount of 0.1-10%; [3: 41-50, 2: 60-63], and fragrance and bleaches; [5: 60-65].

Romack et al. do not specifically point to the fatty alcohol branched polyalkyloxyate of formula (I), even though from the list of similar compounds on column 4, their presence is implicitly abundant. However, Jureller et al. teach a very similar CO₂ based cleaning composition comprising the fatty alcohol branched polyalkyloxyate of instant claim; [9: formula II, claim 1], when considering the taught ranges of parameters A, A', d, L, L', e, f, n, g, o, z, G, and h as defined; [5: 4-26, 6: 1-3, 10: 22-29], the exemplified structure is $\text{HO}(\text{CH}(\text{CH}_3)\text{CH}_2\text{O})_i(\text{CH}_2)_m\text{CH}_3$, where $m_{\text{claim}} = i_{\text{ref}} = 1-50$; [10: 25-26, 11: 23], and $R^1_{\text{claim}} = \text{C}_8\text{-C}_{22}$, $R^2_{\text{claim}} = \text{H}$. Jureller et al. and Romack et al. are analogous art because they are from the same field of endeavour, that of CO₂ based dry cleaning compositions and methods. At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the same types of

fatty alcohols of Schulte et al. (which are functional equivalent) in the process of Romack et al.

Regarding claim 12, Romack et al. teach the basic method of cleaning a textile by contacting it with carbon dioxide based cleaning and conditioning agent. Additionally, with respect to this limitation of instant claim the *MPEP 2144.04, II* states that: “Omission of an Element and Its Function Is Obvious if the Function of the Element Is not Desired: *Ex parte Wu*, 10 USPQ 2031 (*Bd. Pat. App. & Inter.* 1989”). At the time of invention it would have been obvious to a person of ordinary skill in the art to include or exclude any one of cleaning and conditioning ingredients with the motivation of cleaning, or rinsing them without surfactants of conditioning components, as is further evidenced by Jureller et al.; [22: table 2, 24: table 4].

Regarding claim 14, Romack et al. teach a multi-ester additive such as dimethyl succinate which is equivalent to that of formula (II) with molecular weight of less than 750; [3: 20-26].

Claims 16-19, and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romack et al. (US 6,258,766 B1), in view of Jureller et al. (US 5,676,705).

Regarding claims 16, 18, 19, and 24, Romack et al. teach a method and composition for dry cleaning (1: 60-68, 2: 1-3) wherein the textile are contacted with a

treatment medium based on liquid CO₂; [3: 41-50], which includes alkoxylated alcohols and fatty acids (surfactants or conditioning medium) by the amount of 0.1-10%; [3: 41-50, 2: 60-63].

Romack et al. do not specifically point to the fatty alcohol branched polyalkyloxyate of formula (I), even though from the list of similar compounds on column 4, their presence is quite probable. However, Jureller et al. teach a very similar CO₂ based cleaning composition comprising the fatty alcohol branched polyalkyloxyate of instant claim; [9: formula II, claim 1], when considering the taught ranges of parameters A, A', d, L, L', e, f, n, g, o, z, G, and h as defined; [5: 4-26, 6: 1-3, 10: 22-29], the exemplified structure is $\text{HO}(\text{CH}(\text{CH}_3)\text{CH}_2\text{O})_i(\text{CH}_2)_m\text{CH}_3$, where $m_{\text{claim}} = i_{\text{ref}} = 1-50$; [10: 25-26, 11: 23], and $R^1_{\text{claim}} = \text{C}_8\text{-C}_{22}$, $R^2_{\text{claim}} = \text{H}$. Jureller et al. and Romack et al. are analogous art because they are from the same field of endeavour, that of CO₂ based dry cleaning compositions and methods. At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the same types of fatty alcohols of Schulte et al. (which are functional equivalent) in the process of Romack et al.

Regarding claim 17, Romack et al. teach the basic method of cleaning a textile by contacting it with carbon dioxide based cleaning and conditioning agent.

Additionally, with respect to this limitation of instant claim the *MPEP 2144.04, II* states that: "Omission of an Element and Its Function Is Obvious if the Function of the Element Is not Desired: *Ex parte Wu*, 10 USPQ 2031 (*Bd. Pat. App. & Inter.* 1989)". At

the time of invention it would have been obvious to a person of ordinary skill in the art to include or exclude any one of cleaning and conditioning ingredients with the motivation of cleaning, or rinsing them without surfactants or conditioning components, as is further evidenced by Jureller et al.; [22: table 2, 24: table 4].

Claims 20-22, and 25-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Romack et al. (US 6,258,766 B1), in view of Jureller et al. (US 5,676,705).

Regarding claims 20, 22, and 25, Romack et al. teach a method and composition for dry cleaning (1: 60-68, 2: 1-3) wherein the textile are contacted with a treatment medium based on liquid CO₂; [3: 41-50], which includes alkoxyated alcohols and fatty acids (surfactants or conditioning medium) by the amount of 0.1-10%; [3: 41-50, 2: 60-63].

Romack et al. do not specifically point to the fatty alcohol branched polyalkyloxylate of formula (I), even though considering the list of similar compounds on column 4, their presence is quite probable. However, Jureller et al. teach a very similar CO₂ based cleaning composition comprising the fatty alcohol branched polyalkyloxylate of instant claim; [9: formula II, claim 1], when considering the taught ranges of parameters A, A', d, L, L', e, f, n, g, o, z, G, and h as defined; [5: 4-26, 6: 1-3, 10: 22-29], the exemplified structure is HO (CH (CH₃) CH₂O)_i (CH₂)_m CH₃, where $m_{\text{claim}} = i_{\text{ref}} = 1-50$; [10: 25-26, 11: 23], and $R^1_{\text{claim}} = \text{C}_8\text{-C}_{22}$, $R^2_{\text{claim}} = \text{H}$.

Jureller et al. and Romack et al. are analogous art because they are from the same field of endeavour, that of CO₂ based dry cleaning compositions and methods. At the time of invention, it would have been obvious to a person of ordinary skill in the art to use the same types of fatty alcohols of Schulte et al. (which are functional equivalent) in the Process.

Regarding claim 26, Romack et al. teach a multi-ester additive such as dimethyl succinate which is equivalent to that of formula (II) with molecular weight of less than 750; [3: 20-26].

Response to Arguments

Applicant's arguments filed 11/16/09 have been fully considered but they are not persuasive. Because:

A- In response to applicant's argument that: "examiner has confused the terms of surfactants and conditioning agent": it should be noted, by a person of ordinary skill in the art, that the applicant's assertion is, at least, incorrect on chemical grounds. In chemistry, surfactants have multitudes of properties that make them very useful and effective in varieties of situations, such as cleaning (i.e. anionic surfactants; detergent properties), personal care conditioning (i.e. cationic surfactants; fabric, skin, hair conditioning, and antibacterial applications), and so forth. Also, fatty alcohol alkoxylate surfactants of instantly claimed ingredient of claims 1-2, do indeed have several properties (any reference such as Encyclopedia of Chemical Technology, or Surfactants

could be consulted) such as wetting, foam controlling, or pigment dispersion agent in different areas (=“arts”) chemical applications such as household cleaners, diswashing and rinsing, fabric care, hard surface care, and, as indicated before, personal care. In short, it would be not far from true, and correct to state that, now a days most of conditioning agents are made of surfactants.

B- Applicant’s claimed ingredient is identical to the teaching of the prior arts, namely Romack et al. and Jureller et al. Whether the conditioning properties are mentioned or not, the process in their dry cleaning action inherently embodies the claimed conditioning action. Even in the absence of a language indicating another property of the same identical surfactant, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

C- In response to applicant's argument that: “Jureller teaches a broad and vast array of surfactants and examiner has selectively picked and chosen the one set of limitation”, it should be noted that: a)- Jureller, clearly and unequivocally, has taught that: “surfactants which are useful in the invention may be selected from four groups of compounds”; [4: 61-63], and indeed formula (II) is the ingredient identical to the claimed one in te instant application; [9: 30-33]. b)- Note that a reference must be considered in its entirety, for it is well settled that the disclosure of a reference is not limited to preferred embodiments or specific working examples therein. *In re Fracalossi*,

681 F.2d 792, 794, 215 USPQ 569, 570 (CCPA 1982); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976). A reference is relevant for all that it contains, including non-preferred embodiments because a non-preferred portion of a reference is just as significant as the preferred portion in assessing the patentability of claims. *In re Heck*, 669 F.2d 1331, 1333, 216 USPQ 1038, 1039 (Fed. Cir. 1983), *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960).

D- In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. M. Reza Asdjodi whose telephone number is (571)270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Milton I. Cano/
Supervisory Patent Examiner, Art Unit 1796

/M.R.A./
Examiner, Art Unit 1796
02/21/2010

Application/Control Number: 10/525,042
Art Unit: 1796

Page 12